

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF NEVADA

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4 EDWARD E. SEELY,

5 Plaintiff(s),

6 v.

7 CITY OF LAS VEGAS (DOES 1-10 or
8 ROES 1-10); NEVADA STATE PUBLIC
WORKS DIVISION (DOES 1-10 or/and
ROES 1-10 CORPORATIONS),

9 Defendant(s).

2:20-cv-02109-APG-VCF

ORDER

10 Before me are the motion to amend complaint (ECF No. 24), motion for summons (ECF No. 25),
11 and motion to extend time to serve (ECF No. 26).

12 No opposition has been filed to ECF Nos. 24, 25, and 26.

13 Pursuant to LR 7-2, the failure of an opposing party to file points and authorities in response to
14 any motion, except a motion under Fed. R. Civ. P. 56 or a motion for attorney's fees, constitutes a consent
15 to the granting of the motion. Here, it would seem as though defendants have consented to the granting
16 of the instant motions.

17 Seely is requesting a 30-day extension to perfect service on defendant Nevada State Public Works
18 Division.

19 Pursuant to Federal Rule of Civil Procedure 4(m), "[i]f a defendant is not served within 90 days
20 after the complaint is filed, the court--on motion or on its own after notice to the plaintiff--must dismiss
21 the action without prejudice against that defendant or order that service be made within a specified time.
22 But if the plaintiff shows good cause for the failure, the court must extend the time for service for an
23 appropriate period." "The 90-day time limit imposed by Rule 4(m) expires 90 days after the first
24 complaint in which the defendant is named..." is filed. *Bolden v. City of Topeka*, 441 F.3d 1129, 1148
25 (10th Cir. 2006)(emphasis added). The 90-day time limit for service does not restart each time a plaintiff

1 files a new amended complaint. *Id.* The district court may extend time for service of process retroactively
2 after the 90-day service period has expired. *See Mann v. American Airlines*, 324 F.3d 1088, 1090 (9th
3 Cir.2003).

4 Here, Seely has shown good cause for a 30-day extension to perfect service on defendant Nevada
5 State Public Works Division.

6 Accordingly, and good cause appearing,

7 I ORDER that the motion to amend complaint (ECF No. 24), motion for summons (ECF No. 25),
8 and motion to extend time to serve (ECF No. 26) are GRANTED.

9 I FURTHER ORDER that Plaintiff must file the amended complaint on or before February 9,
10 2022.

11 I FURTHER ORDER that the time to perfect service on defendant Nevada State Public Works
12 Division is extended to March 11, 2022.

13 The Clerk of Court is directed to issue summons for defendant Nevada State Public
14 Works Division after plaintiff files his amended complaint.

15 DATED this 26th day of January 2022.



16 CAM FERENBACH
17 UNITED STATES MAGISTRATE JUDGE
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